THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.22454 of 2006

Date: 28th December, 2006

Between :-

Smt. Gosangi Prabhavathi .. Petitioner

And

The District Collector,
East Godvari District and Kakinada
And others .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.22454 of 2006

ORDER:-

1. This Court ordered *notice before admission* on 30-10-2006 and *status quo* was granted for a limited period and the same is being extended from time to time.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of respondents in taking the land of the petitioner to an extent of Ac.0-78 cents in Sy.No.253 of Billakuru village, Kothapeta Mandal, East Godavari District for laying the road without any notice and without initiating Land Acquisition proceedings alnernatively providing the suitable land for cultivation is as arbitrary, contrary to law and violative of Articles 14, 21 and 300 (A) of the Constitution of India and principles of natural justice and pass such other suitable orders.

3. It is brought to the notice of this Court that as against the Village Secretary and also other certain parties already the Writ Petitioner filed a suit O.S.No.33/2004 on the file of Junior Civil Judge, Kothapeta.

4. It is stated by the Writ Petitioner that her husband

Gosani Krishna Murthy was a driver in Indian Army having participated in India-China War and also War between India and Pakistan and the Government of Andhra Pradesh assigned the land to an extent of Ac.0-78 cents in Sy.No.253 of Billakuru village in the year 1965 while her husband was in service and also granted patta and a certificate was issued in Form No.D vide Ref. (B)/722/9304, dt.16-1-95 by the Taluk Office, Kothapet. Since the date of assignment, the land is being cultivated by the petitioner and this is only the source of her livelihood and her entire family. Her husband retired from service in 1978 and after retirement, he had been cultivating the said land and earning the livelihood. It is also stated that the Gram Panchayat seems to have conducted the General Body Meeting on 21-6-2003 under the Chairmanship of Sarpanch of the village and resolved to lay the road from Nellivaripeta School to Golakotivaripalem through the petitioner's land in Sy.No.253 and in pursuance of the said resolution, the Village Secretary attempted to interfere with the peaceful possession and enjoyment of the petitioner and she had instituted a suit O.S.No.33/2004 referred to supra. It is also stated that the person-in-charge, Gram Panchayat, Billakuru village, gave *no objection* under letter dt.3-6-1994 for giving the said land to the petitioner in the year

1995 and in the year 1995 “D” Form Patta was issued to the petitioner by the Taluk Office, Kothapeta. Under such circumstances, the petitioner approached this Court by filing the present Writ Petition.

5. It is stated by the learned Standing Counsel representing Gram Panchayat as per instructions that the petitioner is in possession of excess land.

6. It is needless to say that the petitioner at the best would be having interest only in such land which had been assigned to her by way of “D” Form Patta. It is needless to say that, in such cases, if the respondents intend to lay a road in the subject matter of the Writ Petition, the respondents are bound to follow the due process of law. In view of the same, the Writ Petition is disposed of directing the respondents not to disturb the possession of the petitioner in relation to the subject matter of the Writ Petition as specified in the DKT Patta in favour of the petitioner unless and until due process of law is followed in this regard.

7. The Writ Petition is disposed of. No order as to costs.

Justice P.S.Narayana

28th December, 2006

smr